



## Prisoner Appeals

The Court has four different guides concerning prisoner litigation, one for each of the following: civil rights (Section 1983/Bivens); Section 2254 habeas petition for persons in state custody; Section 2255 motion to vacate, set aside or correct sentence for persons in federal custody; and Section 2241 habeas petition for persons in federal custody and state pre-trial detainees. For more information on your specific type of case, please consult the applicable guide. You may obtain a copy of the guides by contacting the Clerk's Office using the contact information provided at the end of this document.

### When can I file an appeal in a prisoner case?

Generally, you may file an appeal after you have obtained the final judgment in your case. [Federal Rule of Appellate Procedure 4\(a\)](#) governs when a notice of appeal in a civil case must be filed. Notices of appeal must be filed with the district court within 30 days of when the judgment or order appealed from is entered. See Rule 4(a)(1)(A), Rules of Appellate Procedure. When the United States or its officer or agency is a party, such as in a 2255 motion, the notice of appeal may be filed within 60 days after the judgment or order appealed from is entered. See Rule 4(a)(1)(B), Rules of Appellate Procedure.

There is an exception to this rule, however, if your case concerns a habeas corpus petition under 28 U.S.C. §§ 2254 or 2255. To file an appeal in a habeas corpus action, you must first receive: (1) a final order that is adverse to you; and (2) a certificate of appealability from the district judge in the final order of your case. See Rule 11, Rules Governing § 2254 Cases and Rule 11, Rules Governing § 2255 Proceedings. If the district court denies the certificate, you must seek a certificate of appealability from the Court of Appeals under Federal Rule of Appellate Procedure 22 when filing your appeal.

### What do I need to do to file an appeal?

1. File a Notice of Appeal with the district court; and
2. Pay the \$505.00 filing fee **OR** request to waive the filing fee by submitting a completed "Prisoner Affidavit Accompanying Motion for Permission To Appeal" In Forma Pauperis."

**§§ 2241 and 2254 Cases:** If you were granted IFP status by the district court in your habeas case, you do not need to submit another IFP application with your notice of appeal.



**§ 2255 Cases:** If you were represented by appointed counsel at the end of your criminal case, you do not need to submit an IFP application on appeal because the filing fee for your appeal will automatically be waived, unless the judge specifically rules otherwise.

**Prisoner Civil Rights Cases:** You must submit another IFP application with your notice of appeal because the Court must determine the initial partial filing fee and subsequent installment payments required under the Prison Litigation Reform Act. See 28 U.S.C. § 1915(b).

You may contact the Clerk's Office to obtain a Notice of Appeal form. For information on filing a notice of appeal, review [Rules 3 and 4 of the Federal Rules of Appellate Procedure](#).

If the district court denies your IFP application on appeal, you may appeal this determination to the Eighth Circuit Court of Appeals by filing a Motion and Affidavit for Permission to Appeal in Forma Pauperis. You may obtain a copy of this form by contacting the Clerk of Court for the Eighth Circuit Court of Appeals at the following address and phone number:

Eighth Circuit Court of Appeals Clerk's Office  
Thomas F. Eagleton Courthouse  
Room 24.329  
111 South 10<sup>th</sup> Street  
St. Louis, MO 63102

Phone: (314) 244-2400

**How do I contact the District Court Clerk's Office?**

United States District Court, District of Minnesota Clerk's Office  
U.S. Courthouse  
300 South Fourth Street, Suite 202  
Minneapolis, MN 55415

Phone: (612) 664-5000

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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

**NOTICE OF APPEAL**

Pursuant to Fed. R. App. P. 3(c)(1) and 4(a), notice is hereby given that the following parties  
(provide the names of all parties who are filing an appeal):

in the above-named case appeal to the United States Court of Appeals for the Eighth Circuit.

The above-named parties appeal from the \_\_\_\_\_ (indicate whether the  
appeal is from a *judgment* or an *order* of the District Court) of the U.S. District Court for the  
District of Minnesota that was entered on \_\_\_\_\_ (date judgment or order was  
entered) that:

(If the appeal is from an *order*, provide brief explanation, below, of the District Court's decision in the order. If you are appealing only a portion of the judgment or order, indicate below which part of the judgment or order you are appealing).

Signed this                      day of

Signature of Party

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Mailing Address

Telephone Number

Note: All parties filing the appeal must date and sign the Notice of Appeal and provide his/her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his/her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.

## Motion and Affidavit for Permission to Appeal In Forma Pauperis

v.

Appeal No. \_\_\_\_\_

District Court or Agency No. \_\_\_\_\_

**Affidavit in Support of Motion**

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: \_\_\_\_\_

**Instructions**

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is “0,” “none,” or “not applicable (N/A),” write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case’s docket number, and the question number.

Date: \_\_\_\_\_

**My issues on appeal are:**

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$_____	\$_____	\$_____	\$_____
Self-employment	\$_____	\$_____	\$_____	\$_____
Income from real property (such as rental income)	\$_____	\$_____	\$_____	\$_____
Interest and dividends	\$_____	\$_____	\$_____	\$_____
Gifts	\$_____	\$_____	\$_____	\$_____
Alimony	\$_____	\$_____	\$_____	\$_____

Child support	\$ _____	\$ _____	\$ _____	\$ _____
Retirement (such as social security, annuities, insurance)	\$ _____	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____	\$ _____	\$ _____
<b>Total monthly income:</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>\$ _____</b>

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. How much cash do you and your spouse have? \$ \_\_\_\_\_

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

**If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.**

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	(Value)	Other real estate	(Value)	Motor vehicle #1	(Value)
_____		_____		Make & year: _____	
_____		_____		Model: _____	
_____		_____		Registration #: _____	
Motor vehicle #2	(Value)	Other assets	(Value)	Other assets	(Value)
Make & year: _____		_____		_____	
Model: _____		_____		_____	
Registration #: _____		_____		_____	

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$_____	\$_____
Are real-estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$_____	\$_____
Home maintenance (repairs and upkeep)	\$_____	\$_____
Food	\$_____	\$_____
Clothing	\$_____	\$_____

Laundry and dry-cleaning	\$_____	\$_____
Medical and dental expenses	\$_____	\$_____
Transportation (not including motor vehicle payments)	\$_____	\$_____
Recreation, entertainment, newspapers, magazines, etc.	\$_____	\$_____
Insurance (not deducted from wages or included in Mortgage payments)	\$_____	\$_____
Homeowner's or renter's	\$_____	\$_____
Life	\$_____	\$_____
Health	\$_____	\$_____
Motor Vehicle	\$_____	\$_____
Other: _____	\$_____	\$_____
Taxes (not deducted from wages or included in Mortgage payments) (specify): _____	\$_____	\$_____
Installment payments		
Motor Vehicle	\$_____	\$_____
Credit card (name): _____	\$_____	\$_____
Department Store (name): _____	\$_____	\$_____
Other: _____	\$_____	\$_____
Alimony, maintenance, and support paid to others	\$_____	\$_____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$_____	\$_____
Other (specify): _____	\$_____	\$_____
<b>Total monthly expenses:</b>	\$_____	\$_____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☐ No

If yes, describe on an attached sheet.



10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☐ No

If yes, how much? \$\_\_\_\_\_

If yes, state the attorney's name, address, and telephone number:

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11. Have you paid — or will you be paying — anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☐ No

If yes, how much? \$\_\_\_\_\_

If yes, state the person's name, address, and telephone number:

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12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

13. State the address of your legal residence.

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Your daytime phone number: (\_\_\_\_) \_\_\_\_\_

Your age: \_\_\_\_\_ Your years of schooling: \_\_\_\_\_

The following Certificate of Authorized Prison Official must be completed and filed with a prisoner's Application to Proceed without Prepayment of Fees and Affidavit for all incarcerated applicants. *See* 28 U.S.C. § 1915(a)(2) (a prisoner who applies to proceed without prepayment of fees must provide a certified copy of the trust fund account statement "obtained from the appropriate official of each prison at which the prisoner is or was confined"). The information provided below will be used by the Court in determining the proper initial partial filing fee as defined under 28 U.S.C. § 1915(b).

### CERTIFICATE of AUTHORIZED PRISON OFFICIAL

I, \_\_\_\_\_, certify that the incarcerated applicant

\_\_\_\_\_ (name of applicant) has the sum of \$ \_\_\_\_\_ on account to his/her credit at \_\_\_\_\_ (name of

institution) . I further certify that the Applicant named herein has the following securities to his/her credit:

\_\_\_\_\_

\_\_\_\_\_

I further certify that in the 6-month period immediately preceding the filing of the complaint/petition/motion or notice of appeal, the average monthly deposits to the applicant's trust fund prison account was

\$ \_\_\_\_\_, and the average monthly balance in the prisoner's account was

\$ \_\_\_\_\_.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED OFFICIAL